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United States Department Of Commerce

JPN

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John Dash
Applicant

Applicant: John Dash
Application No. : 10/616,165
Filing Date: 07/07/2003
For: Low Temperature Nuclear Fusion
Art Unit: 3663
Examiner: Richardo J. Palabrica
(aka Rick Palabrica)

Request For Reconsideration
Of Decision By Donald T. Hajec, Director 3600
Mailed March 1, 2007

Commissioner of Patents
P.O. Box 1450
Alexandria Va. 22313-1450

Sir:

The undersigned Applicant hereby requests reconsideration of the decision by Donald T. Hajec, "Director 3600" mailed March 1, 2007 in connection with the application noted in the preceding. This request is being mailed concurrently with an amendment in connection with the noted application which has been prepared by guessing why an earlier amendment was referred to you and what specific content of this earlier document was considered to be in violation of 35 CFR 1.3.

A serious effort has been made to rewrite and modify this earlier amendment in an effort to avoid any conflict between its contents and 37 CFR 1.3. Since a series of SAWS documents was recently received from a presently unknown "whistle blower" the content of the earlier amendment pertaining to what may be termed "secret law" has been replaced in the revised amendment with various remarks relative to the the SAWS policy and/or situation.

This particular request for reconsideration is being filed at this time because the Applicant does not know what remark or remarks in the earlier filed amendment caused it to be considered in violation of 37 CFR 1.3. Since the earlier filed but not entered amendment was reviewed prior to its being filed by several qualified individuals to make sure that it complied with the Office rules, since the Examiner stated that he had determined - apparently unilaterally - that the amendment was in violation of 37 CFR 1.3 without giving any reason or suggestion as to what specific content of it he found in violation of this rule in and since your earlier decision was similarly devoid of information of the type indicated there is always the chance that the concurrently filed amendment may be objectionable even though it has been revised in order to avoid any question about it being in compliance with the rules and in order to avoid a possible argument relative to the abandonment of this application.

Consideration was given to encumbering this document with dictionary definitions of the "key" words "decorum" and "courtesy" used in 37 CFR 1.3 and a discussion of the meaning of these words. Under the circumstances of this case this is considered to be currently unnecessary. An unsuccessful effort was also made to locate any prior decisions under this rule. In view of what has occurred in connection with this application it appears to the Applicant that probably the best way of determining whether there has been compliance with this rule is to use rather simple

logic.

There is no question that the rule would be violated if the amendment in question discussed the position of the examiner's ancestors in the animal world, the marital status of the examiner's parents or a number of other things of a similar or related character. But there is nothing of the sort in this prior document. It does however raise a number of issues as to the handling of this application which in one way or another were all related to the application of "secret law" by the office.

It is considered that the concern about these matters expressed in the prior amendment have recently proved to be justified. The applicant has recently received SAWS documents which indicate that applications on subject matters such as this application receive "special handling" such as might cause a reasonable examiner to also give such an application the same or a similar treatment. Collateral matters apparently tend to promote the same view.

Issues such as are generated by facts as briefly discussed can only be effectively raised in connection with the facts which created such issues. The latter facts are primarily related to the facts relative to the examination of this application and inherently involve the action of any examiner handling the application. This reasonably necessitated reference to the Examiner handling this case.

Thus, remarks as were used in the earlier amendment were legitimate efforts to promote the prosecution of this application on its merits. They were not primarily or significantly critical of the Examiner, but were used to further the prosecution of this case on a fair and reasonable basis. Routinely the remarks in amendments can be construed to be complaints against examiners because they point out real or alleged errors or mistakes made by an examiner in acting on a case. Such verbiage is consistently considered as routine type correspondence. A normal examiner is

expected to withstand the degree of criticism involved in such statements indicating that he or she erred, misconstrued or did something similar.


Under the circumstances you are respectfully requested to reverse your earlier decision noted in the preceding and to hold that there has been no violation of 37,CFR 1.3. To avoid questions you are also requested to have the earlier filed amendment entered and to concurrently to have it superseded by being "supplemented" by the concurrently filed amendment. This course of action will alleviate any need to discuss the SAWS policy and documents pertaining in this case in this request for reconsideration and any need to point out the relationship between the action complained of and the odious Star Chamber proceedings of the past,

Respectfully submitted-

March. 26, ~~2006~~ 2007



John Dash, Applicant, on behalf of himself and the assignee of the noted application.


3-26-07



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John Dash Applicant

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Applicant: John Dash
Application No. : 10/616,165
Filing Date: 07/07/2003
For: Low Temperature Nuclear Fusion
Art Unit: 3663
Examiner: Richardo J. Palabrica
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Amendment And Request For Reconsideration
In Response To An Office Action Mailed April 27,2006 And To An
Office Communication Paper 20070227 Mailed March 1, 2007

Commissioner of Patents
P.O. Box 1450
Alexandria Va. 22313-1450

Sir:

In response to the Office communication and the action noted in the preceding the Applicant hereby amends the claims in this case as indicated starting on the following page 5, requests reconsideration of all of the many objections and rejections in the preceding actions for reasons as subsequently discussed .and, in addition, requests reconsideration of the application on other grounds related to the issues effecting this case. The amendments in the claims made in this document

are the same as those made in prior amendment apparently filed Nov. 16, 2006.
Some of the remarks in this document are also the same.

Occurrences During The Period Between This And The Prior Amendment

To avoid possible confusion because of what has occurred in connection with this application and because of the chance of this confusion being compounded if the request for reconsideration of a "Office communication" amounting to a decision mailed March 1,2007 is granted it is considered desirable to summarize what has occurred in this case. This is particularly the case so as to clarify the "status" of exhibits filed with an amendment apparently received by the PTO on Oct. 2,2006.

This history starts off with a 50 page Office action in this application, The applicant responded to it on the date noted with an amendment raising several issues relating to the question of whether this application had been examined as required by the Office Rules and, in addition, specifically traversing each ground of rejection in the preceding Office action. This response to this 50 page document specifically raised what can be considered to be the issue as to whether or not the application had been properly examined or had been considered in accordance with some "secret law" applied by the Office.

Instead of responding on the merits to the noted amendment replying to lengthy official action the Office issued a condemnation of the amendment stating:

"The examiner has determined that applicant's 10/20/05 Amendment violates the provisions of 37 CFR 1.3. Accordingly the examiner has acted on the amendment in accordance with MPEP 714,19(K)."

No indication was given of any specific allegation or series of allegations of what the alleged violation was or the alleged violations were. No suggestion was given to the

applicant at any time notifying him of any specific alleged violation of 37CFR 1.3. The decision by the appropriate group Director was similarly deficient. In a case such as this it is only reasonable that an applicant be given a fair suggestion as to what has been said or done which is considered to have been improper.

After the noted decision the Applicant was given a limited period to address “.....the issues raised in the Office action by the examiner.” It was also indicated that complaints against an examiner must be made in “*separate*” correspondence and further indicated that business before the Office should be conducted with “*decorum and courtesy*”. No effort was made to amplify upon either of these allegations. Thus, the applicant does not even know what if any specific remarks in a comparatively long (33 page amendment) previously filed amendment are considered to be unobjectionable or objectionable.

No effort is made herein to discuss the character of this Star Chamber type procedure. A separate document requesting reconsideration of the Director's decision will be submitted to the Office about the same time this response is filed.

The “Status” Of Previously Submitted Exhibits

Reference to the noted facts in this document is considered to be necessary for several reasons. One of these is in order to clarify the location of and status of the various exhibits submitted to the Office with the amendment filed October 2, 2006. It is considered that that this can be easily cleared up without controversy.

It would be stupid to require duplicates of these documents to be filed at this time. On the other hand if they are not properly a part of the record in connection with this application because the earlier amendment was “not entered” they should be made of record in this application in some manner or another since to a degree they

are referred to in this document.

Under the circumstances if the exhibits previous submitted are not part of the record in connection with this application it is respectfully requested that that they be "transferred" or whatever is technically required so that they can be considered along with this document by the Office in acting on the present application. If this is not possible it is requested that the Applicant be informed of this situation so that copies of the previously submitted documents can be resubmitted.

The SAWS "Situation" And Remarks Relative To It

Since the filing on Oct. 20, 2007 of an amendment in this case a presently unknown "whistle blower" forwarded the following materials (copies of which are enclosed) to the Applicant and at least one other:

1. A one page "memorandum" dated June 5, 1989 from a Kenneth Cage relative to "Cold Fusion Applications".
2. A one page untitled transmittal document dated March 27, 2006 apparently from a Janice A. Falcone et al relative to "Reminder on TC 2800 Guidelines for Sensitive Application Warning System (SAWS) Program Reminder".
3. A three page document dated March 27, 2006 which is unsigned and which is titled "Special Application Warning System (SAWS)".

Since it is believed ta all of these documents pertain to the same broad subject matter but that they are not all of the documents relating to this subject matter they are collectively referred to in this response collectively as the now known "SAWS" documents or "currently disclosed" SAWS documents or the like.

From the contents of these papers it is considered to be obvious that there are